

3

2015R- 139  
**RESOLUTION**  
**of the**  
**CITY OF**  
**MINNEAPOLIS**

By Goodman

**Authorizing the issuance, sale, and delivery of Senior Housing and Healthcare Revenue Bonds (Ecumen – Abiitan Mill City Project), Series 2015; approving the form of and authorizing the execution and delivery of the bonds, and related documents; providing for the security, rights, and remedies with respect to the bonds; and granting approval for certain other actions with respect thereto.**

Resolved by The City Council of The City of Minneapolis:

1. **STATUTORY AUTHORIZATION.** The City of Minneapolis, Minnesota (the "City"), is a home rule city and political subdivision duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota, and is authorized by Minnesota Statutes, Chapter 462C, as amended (the "Housing Act"), to carry out the public purposes described in the Housing Act by issuing revenue bonds or other revenue obligations to finance multifamily housing developments located within the City. A multifamily housing development may consist of a combination of a multifamily housing development and a new or existing health care facility if the following conditions are satisfied: (i) the multifamily housing development is designed and intended to be used for rental occupancy; (ii) the multifamily housing development is designed and intended to be used primarily by elderly or physically disabled persons; and (iii) nursing, medical, personal care, and other health-related assisted living services are available on a 24-hour basis in the development to the residents. In the issuance of the City's revenue bonds and other revenue obligations and in the making of loans to finance multifamily housing developments, the City may exercise, within its corporate limits, any of the powers that the Minnesota Housing Finance Agency may exercise under Minnesota Statutes, Chapter 462A, as amended, without limitation under the provisions of Minnesota Statutes, Chapter 475, as amended.

2. **THE BORROWER AND THE PROJECT.** Ecumen Mill City Quarter, LLC, a Minnesota limited liability company (the "Borrower"), the sole member of which is Ecumen, a Minnesota nonprofit corporation (the "Sole Member"), has requested the participation of the City in the financing of the acquisition, construction, and equipping of a 151-unit multifamily rental housing development and facilities functionally related and subordinate thereto, to be located at 428 Second Street South in the City to be owned by the Borrower (the "Project"). The Project is expected to include 48 memory-care units and 103 apartment homes with home care services that will be provided to elderly residents as a separate charge on an as-needed basis.

3. **THE HOUSING PROGRAM.** A Program for a Multifamily Housing Development (the "Housing Program") with respect to the Project and the proposed issuance of revenue bonds to finance the Housing Program and the Project was prepared in accordance with the requirements of Section 462C.03, subdivision 1a, of the Housing Act, and is on file with the City. The Housing Program was submitted to the Metropolitan Council for its review and comments in accordance with the requirements of the Housing Act.

4. **PUBLIC HEARING AND PRELIMINARY RESOLUTION.** The Community Development and Regulatory Services Committee of the Minneapolis City Council, on behalf of the City, held a public hearing on March 24, 2015, with respect to the Housing Program and the proposed issuance of revenue obligations to finance the Project. The public hearing was conducted at least fifteen (15)



days after the publication in a newspaper of general circulation in the City of a notice of such public hearing. The Housing Program is hereby approved and adopted.

5. **THE BONDS.** The Borrower has requested that the City issue its Senior Housing and Healthcare Revenue Bonds (Ecumen – Abiitan Mill City Project), Series 2015 (the "Bonds"), in an aggregate principal amount of approximately \$32,000,000, for the benefit of the Borrower, pursuant to the terms of an Indenture of Trust, dated on or after April 1, 2015 (the "Indenture"), between the City and U.S. Bank National Association, as trustee, or another trustee to be selected by the Borrower (the "Trustee"). The Borrower has requested that the City loan the proceeds derived from the sale of the Bonds to the Borrower in accordance with the terms and conditions of a Loan Agreement, dated on or after April 1, 2015 (the "Loan Agreement"), between the City and the Borrower. The Borrower proposes to apply the proceeds of the loan made under the provisions of the Loan Agreement (the "Loan") to the payment of a portion of the costs of the acquisition, construction, and equipping of the Project and related costs.

6. **OBLIGATIONS OF THE CITY.** The City acknowledges, finds, determines, and declares that the issuance of the Bonds is authorized by the Housing Act and is consistent with the purposes of the Housing Act and that the issuance of the Bonds, and the other actions of the City under the Indenture, the Loan Agreement, and this resolution constitute a public purpose and are in the interests of the City. In authorizing the issuance of the Bonds for the financing of the Project and related costs, the City's purpose is and the effect thereof will be to promote the public welfare of the City and its residents, and to further the purposes and policies of the Housing Act, by providing a multifamily rental housing development in the City in which: (i) apartment homes will be available for senior residents of the City with home-care services provided to the residents on an as-needed basis; and (ii) memory-care units will be available for senior residents requiring appropriate healthcare services.

The Bonds will be issued under the terms of the Indenture and this resolution and the Bonds and the interest on the Bonds: (i) shall be payable solely from the revenues pledged therefor under the Loan Agreement and the revenues derived from the collateral pledged to the payment of the Bonds; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Loan Agreement; and (v) shall not constitute a general or moral obligation of the City.

7. **ISSUANCE OF THE BONDS.** For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Bonds in the maximum aggregate principal amount not to exceed \$32,000,000. The City hereby authorizes the Bonds to be issued as "tax-exempt bonds," the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes under Section 145 of the Internal Revenue Code of 1986, as amended (the "Code"). The Bonds, substantially in the forms set forth in the Indenture now on file with the City, are hereby approved with the amendments referenced herein. All of the provisions of the Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be issued in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such forms, and shall have such other terms, details, and provisions as are prescribed in the Indenture, in the form now on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the aggregate principal amount of the Bonds, the stated maturities of the



Bonds, the interest rates on the Bonds, and the terms of redemption of the Bonds) as the Finance Officer, in his discretion, shall determine. The execution of the Bonds with the manual or facsimile signature of the Finance Officer or his designee and the delivery of the Bonds by the City shall be conclusive evidence of such determination.

The Bonds shall be special limited obligations of the City payable solely from the revenues provided by the Borrower under the terms of the Loan Agreement and from other revenues and security pledged, assigned, and granted under the Indenture and any other security documents provided by the Borrower to the Trustee. As provided in the Loan Agreement, the Bonds shall not be payable from nor charged upon any funds other than the revenues and other assets pledged to their payment, nor shall the City be subject to any liability thereon, except from the interests of the City in such revenues and security. No holder of the Bonds shall ever have the right to compel any exercise by the City of any taxing powers of the City to pay the Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Loan Agreement and the revenues and assets thereunder, which will be assigned to the Trustee under the terms of the Indenture. The Bonds shall recite that the Bonds are issued under the Housing Act, and that the Bonds, including interest and premium, if any, thereon, are payable solely from the revenues and assets pledged to the payment thereof, and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

8. THE INDENTURE. The Indenture is hereby approved and the Finance Officer is hereby authorized to execute and deliver the Indenture on behalf of the City. All of the provisions of the Indenture, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Indenture shall be substantially in the form now on file with the City with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, or as the Finance Officer, in his discretion, shall determine, and the execution and delivery thereof by the Finance Officer or his designee shall be conclusive evidence of such determination.

9. THE LOAN AGREEMENT. The Finance Officer is hereby authorized and directed to execute and deliver the Loan Agreement. The loan repayments to be made by the Borrower under the Loan Agreement are to be fixed so as to produce revenues sufficient to pay the principal of, premium, if any, and interest on the Bonds when due. All of the provisions of the Loan Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement shall be substantially in the form on file with the City which is hereby approved, with such omissions and insertions as do not materially change the substance thereof, and as the Finance Officer, in his discretion, shall determine, and the execution thereof by the Finance Officer or his designee shall be conclusive evidence of such determinations.

10. SECURITY. The City hereby approves the execution by the Borrower and delivery to the Trustee of: (i) any mortgage or security agreements granting a mortgage lien or security interest with respect to the Project or any portion thereof to the Trustee; (ii) one or more collateral assignments of the contracts between the Borrower and the architect and contractor with respect to the Project; (iii) one or more indemnity agreements; and (iv) other security documents that are intended to ensure timely payment of the Loan and the Bonds. The City hereby approves the execution and delivery by the Sole Member or one or more other guarantors of one or more guaranty agreements under which the obligations of the Borrower under the Loan Agreement are guaranteed, in whole or in part, by such guarantors. The City hereby approves a disbursing



agreement, between the Borrower, the Trustee, and a disbursing agent to be selected by the Borrower, to provide for the disbursement of the proceeds of the Bonds and the Loan. All such security documents, if any are delivered, shall be substantially in the forms authorized by the Borrower.

11. OTHER CITY DOCUMENTS. The Finance Officer is hereby authorized to execute and deliver, on behalf of the City, such other documents and certificates as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including a Bond Purchase Agreement, dated on or after the pricing date of the Bonds, between the City, the Borrower, and Dougherty and Company LLC, as original purchaser of the Bonds, one or more consents to the assignment of a development agreement and funds made available to the Borrower and the Project by the City, various certificates of the City, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, with respect to the Bonds, a certificate as to arbitrage and rebate and other tax matters, and similar documents, appropriate amendments to the Housing Program, and all other documents and certificates as the Finance Officer and Kennedy & Graven, Chartered, as bond counsel to the City ("Bond Counsel") shall deem to be necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds. The City hereby authorizes Bond Counsel to prepare, execute, and deliver its approving legal opinions with respect to the Bonds.

12. DISCLOSURE DOCUMENTS. The City will not participate in the preparation of a preliminary official statement, an official statement, or other disclosure documents relating to the offer and sale of the Bonds (the "Disclosure Documents"), and will make no independent investigation with respect to the information contained in the Disclosure Documents, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information. The City hereby approves the Continuing Disclosure Agreement, dated on or after April 1, 2015 (the "Continuing Disclosure Agreement"), between the Borrower and the Trustee for the benefit of the holders of the Bonds, in the form now on file with the City.

13. SUBSEQUENT AMENDMENTS. On any date subsequent to the date of issuance of the Bonds, the Finance Officer and his designee are hereby authorized to execute and deliver any amendments or supplements to any of the documents referred to in this resolution on behalf of the City if, after review by the City Attorney and Bond Counsel, the Finance Officer or his designee determines that the execution and delivery of such amendment or supplement is in the interests of the City. The Finance Officer or his designee may impose any terms or conditions on the execution and delivery of any such amendment or supplement as the Finance Officer or his designee deems appropriate.

14. LIMITATIONS OF LIABILITY. No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council of the City, or any officer, agent, or employee of the City in that person's individual capacity, and neither the City Council of the City nor any officer or employee executing the Bonds shall be personally liable on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No provision, covenant, or agreement contained in the aforementioned documents, the Bonds, or in any other document relating to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to a general or moral obligation of the City or any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement, which are to be applied to the payment of the Bonds, as provided therein.



Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City, and any holders of the Bonds issued under the provisions of this resolution, any right, remedy, or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, this resolution, the aforementioned documents, and all of their provisions being intended to be and being for the sole and exclusive benefit of the City, the Borrower, the Trustee, and the registered and beneficial owners from time to time of the Bonds issued under the provisions of this resolution.

15. SEVERABILITY. In case any one or more of the provisions of this resolution, other than the provisions limiting the liability of the City, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

16. VALIDITY OF THE BONDS. The Bonds, when executed and delivered by the Finance Officer or his designee, shall contain a recital that they are issued under the terms and conditions of the Housing Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bonds, and to the execution and delivery of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.

17. ADDITIONAL ACTIONS. The officers of the City, the City Attorney, Bond Counsel, other attorneys, engineers, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bonds, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bonds, the aforementioned documents, and this resolution.

18. DESIGNATION AS PROGRAM BONDS. The Bonds are hereby designated "Program Bonds" and are determined to be within the "Economic Development Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 1997R-402 of the City adopted December 12, 1997.

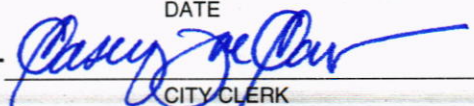
19 FEES AND INDEMNIFICATION. The Borrower has agreed to pay the administrative fees of the City in accordance with the policy and procedures of the City. It is hereby determined that any and all costs incurred by the City in connection with the financing of the Project will be paid by the Borrower. It is understood and agreed by the Borrower that the Borrower shall indemnify the City against all liabilities, losses, damages, costs, and expenses (including attorney's fees and expenses incurred by the City) arising with respect to the Project or the Bonds, as provided for and agreed to by and between the Borrower and the City in the Loan Agreement.

20. EFFECTIVE DATE. Under the provisions of Article IV, Section 4.4(d), of the Charter of the City this resolution shall take effect and be in force from and after its approval and publication, but only the title of this resolution and a summary, as defined in Minnesota Statutes, Section 331A.01, subdivision 10, of this resolution are required to be published in the official paper of the City.


Certified as an official action of the City Council: 

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	ABSTAIN	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	ABSTAIN	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
Reich	X						Glidden	X					
Gordon	X						Cano	X					
Frey	X						Bender	X					
B Johnson	X						Quincy	X					
Yang	X						A Johnson	X					
Warsame	X						Palmisano	X					
Goodman	X												

ADOPTED APR 03 2015

ATTEST   
CITY CLERK

☒ APPROVED ☐ NOT APPROVED ☐ VETOED

 APR 03 2015  
MAYOR HODGES DATE